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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MICROSOFT CORPORATION C/O LYON & HARR, LLP 300 ESPLANADE DRIVE SUITE 800 OXNARD, CA 93036				
			EXAMINER LE, BRIAN Q	
			ART UNIT 2621	PAPER NUMBER
DATE MAILED: 01/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/400,346

Applicant(s)

TOYAMA ET AL

Examiner

Brian Q. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/05/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 93-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 95-98 is/are allowed.
- 6) ☒ Claim(s) 1-20 and 93-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/05/2005 has been entered.

Response to Amendment and Arguments

2. Applicant's amendment filed October 05, 2005, has been entered and made of record.

3. Applicant's arguments, see Remarks, filed 08/31/2005, with respect to the rejection(s) of claim(s) 1, 11, 16, 93-95 under 35 U.S.C. 101 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sullivan et al. U.S. Patent No. 5,287,200.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-20, and 93-98 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended limitation "a prediction module that provides history-based predictions for a value of each of the plurality of pixels, **the history-based predictions based on**

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a history of actual pixel values and a history of predicted pixel values”. There is no supported for this added limitation. In fact, the Applicant clearly indicated (specification page 24, lines 8-10) that at least one of the multiple predictions is based on a history of actual pixel values while at least one of the other predictions is based on a history of prediction pixel values. Thus, there is no such prediction based on both history of actual pixel values and a history of predicted pixel values. Appropriate correction is required.

Also for claim 95, the Applicant is advised to clearly point out the support for the limitations specifically the predicting steps and the classifying steps.

Claims not specifically addressed are rejected because they are dependent to the rejected claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, and 9-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Sambonsugi U.S. Patent No. 6,335,985 and Sullivan et al. U.S. Patent No. 5,287,200.

Regarding claim 1, Sambonsugi teaches a system for maintaining a background model (Fig 2, 12) for an image sequence (Fig 20, 141) having a plurality of pixels (Fig 7 and column 19, 18-21), comprising:

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A pixel processing module that processes the image sequence on a pixel scale (column 4, line 20-35);

A prediction module that provides history-based predictions (predictions are made based on previous frames) (FIG. 8) for shape by the detection of pixel values (column 4, lines 20-36 and 48-55) (column 20, lines 52-67); and

At least one refinement module that processes the image sequence on a spatial scale other than the pixel scale (column 4, line 37-47).

As disclosed by the applicant, spatial scale includes pixel scale, regional scale or frame scale. Sambonsugi clearly teaches pixel scale, regional scale and frame scale through out the reference (column 4, line 37-47 and column 7, line 5-23). Also, it is inherent that a refinement module can be an error minimization technique or enhancement to optimize a new sequence image.

However, Sambonsugi does not clearly teach a prediction module that provides predictions for a value of each of the plurality of pixels. Sullivan teaches of providing predictive coding of pixels in an image wherein a prediction based on a history of actual pixel values and a history of predicted pixel values (reconstructed pixel values, since after a prediction of the pixel value, the pixel value is changed or reconstructed base upon the prediction and thus resulted reconstructed values or predicted values) (column 7, lines 5-15). Modifying Sambosugi's method of maintaining a background model for an image sequence having a plurality of pixels according to Sullivan would have been obvious for one skilled in the art to be able to predict the pixel values based on the actual value and the predicted value of the pixel for further analysis purpose which can be signal error computation. This would improve processing and therefore, it

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would have been obvious to one of the ordinary skill in the art to modify Sambosugi according to Sullivan.

For claim 2, Sambonsugi also teaches the system wherein the pixel processing module further comprises determining an initial background model and providing an initial pixel assignment of each of the plurality of pixels (column 4, line 19-23).

For claim 3, Sambonsugi teaches the system wherein a first refinement module is a region processing module that processes the image sequence on a regional scale (column 4, line 37-47).

Referring to claim 4, Sambonsugi discloses the system wherein the region processing module further comprises considering a relationship between at least some of the plurality of pixels to provide pixel assignment (column 13, line 60-67 and column 14, line 10-15).

For claim 5, Sambonsugi also discloses the system wherein a second refinement module is a frame processing module that processes the image sequence on a frame scale (column 12, 25-50 and 62-67).

Referring to claim 6, Sambonsugi teaches the system wherein the frame processing module further determines a background model that most accurately represents an actual background of the image sequence and performs: (b) substituting a more accurate background model in place of the current background model (column 12, line 0-17).

And for claim 7, Sambonsugi also teaches the system further comprising a postprocessing module that provides enhancement of the image sequence (column 18, line 52-60 and column 31, line 54-67).

Referring to claim 9, Sambonsugi teaches a concept of the system wherein the postprocessing module provides enhancement after the pixel processing module and before the frame processing module (column 32, line 23-35). Furthermore, it also is a designer to have a specific sequence of postprocessing to achieve the desired goal. Therefore, it would have been obvious for one in the ordinary skill of the art to come up with a method wherein the postprocessing module provides enhancement after the pixel processing module and before the frame processing module to output a better quality sequence of images.

For claim 10, as disclosed above, Sambonsugi also teaches the system wherein the postprocessing module provides enhancement after the frame processing module and before the region processing module (column 33, line 0-9 and column 34, line 9-27).

For claims 11, Please refer back to claim 1 for further discussion. Also, Sambonsugi teaches a computer-readable medium (column 35, line 0-3) having computer-executable modules (column 48, line 31-38).

For claims 12-13, please refer back to the discussion of claim 3.

For claims 14-15, please refer back to the discussion of claims 5 and 7.

Regarding claim 16, as discussed in claim 1 with regard to the prediction method, Sambonsugi teaches a method for maintaining a background model (Fig 2, 12) of an image sequence (Fig 20, 141) having a plurality of pixels (Fig 7 and column 19, line 18-21), comprising:

Processing the image sequence on a pixel scale so as to determine a current background model and provide an initial assignment for each of the plurality of pixels (column 6, line 35-48 and column 4, line 19-23); and

Refining the pixel processing by processing on a spatial scale other than the pixel scale (column 7, line 53-64) to further refine at least one of: (b) the initial pixel assignment (column 13, line 60-65 and column 14, line 0-15).

For claims 17-19, please refer back to the discussion of claims 3, 5 and 7.

8. Claim 93 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Sambonsugi U.S. Patent No. 6,335,985 and Sullivan et al. U.S. Patent No. 5,287,200 and further in view of Black U.S. Patent No. 5,802,203.

For claim 93, please refer back to claim 1 for the explanation for previously discussed limitations. However, both Sambonsugi and Sullivan do not explicitly teach a prediction module that provides predictions without using motion prediction. Black teaches an image processing method wherein a prediction module that provides at least two pixel value predictions (predicted pixel brightness values at each pixel) of the plurality of pixels without using motion prediction (predicted pixel brightness values at each pixel has nothing to do with motion prediction) (column 9, lines 19-37). Modifying Sambonsugi's method of processing image sequence according to Black would be able to further predict the brightness values of each pixel. This would improve processing and therefore, it would have been obvious to one of ordinary skill in the art to modify Sambonsugi according to Black.

9. Claim 94 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Sambonsugi U.S. Patent No. 6,335,985 and Sullivan et al. U.S. Patent No. 5,287,200 and further in view of Talluri U.S. Patent No. 6,026,183.

For claim 94, please refer back to claims 1 and 2 respectively for the explanation. However, both Sambonsugi and Sullivan do not clearly teach the concept of disclosing the

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concept of the predictions based on a actual history of pixel values for the predicted pixel and a predicted history of pixel values for the predicted pixel. Talluri teaches an image processing wherein using the prediction process (column 13, lines 9-10) of an actual history of pixel values (actual pixel values) for the predicted pixel and a predicted history (predicted values) of pixel values for the predicted pixel (column 13, lines 10-15). Modifying Sambonsugi's method of processing image sequence according to Talluri would able to perform motion compensation on the input frame (column 13, lines 6-8). This would improve processing and therefore, it would have been obvious to one of the ordinary skill in the art to modify Sambonsugi according to Talluri.

10. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Sambonsugi et al. U.S. Patent No. 6,335,985 and Sullivan et al. U.S. Patent No. 5,287,200 as applied to claim 7 above, and further in view of Jain et al. U.S. Patent No. 6,263,091.

Referring to claim 8, as disclosed in claim 7, Sambonsugi teaches the enhancement concept of the image sequence. However, Sambonsugi failed to introduce that the enhancement technique can be speckle removal. Nevertheless, Jain teaches the technique to isolate foreground and background using speckle removal (column 17, line 42-52). Therefore, it would have been obvious to use speckle removal as an enhancement technique because speckle removal is well known in the art to use to remove the presence of noise, dirt, breaks, and smudges in input images.

For claim 20, please refer back to the discussion above.

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Allowable Subject Matter

11. Claims 95-98 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Contact Information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Q. Le whose telephone number is 571-272-7424. The examiner can normally be reached on 8:30 A.M - 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on 571-272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BL
December 29, 2005


